



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5780

by Rep. Tim Butler

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3305/7

from Ch. 127, par. 1057

Amends the Illinois Emergency Management Agency Act. Provides that in any 12-month period the Governor shall have the authority to issue only one proclamation per disaster and that any further proclamation for the disaster that triggered the original proclamation shall be in force only after a two-thirds vote of each chamber of the General Assembly approves a joint resolution containing the exact language of the proclamation and which the Governor must follow. Provides that the Governor shall have no authority to amend or change the language of the proclamation as approved by joint resolution.

LRB101 21264 CPF 71846 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Emergency Management Agency Act is  
5 amended by changing Section 7 as follows:

6 (20 ILCS 3305/7) (from Ch. 127, par. 1057)

7 Sec. 7. Emergency Powers of the Governor. In the event of a  
8 disaster, as defined in Section 4, the Governor may, by  
9 proclamation declare that a disaster exists. In any 12-month  
10 period the Governor shall have the authority to issue only one  
11 proclamation per disaster. Any further proclamation for the  
12 disaster that triggered the original proclamation shall be in  
13 force only after a two-thirds vote of each chamber of the  
14 General Assembly approves a joint resolution containing the  
15 exact language of the proclamation and which the Governor must  
16 follow. The Governor shall have no authority to amend or change  
17 the language of the proclamation as approved by joint  
18 resolution. Upon a valid ~~such~~ proclamation, the Governor shall  
19 have and may exercise for a period not to exceed 30 days the  
20 following emergency powers; provided, however, that the lapse  
21 of the emergency powers shall not, as regards any act or acts  
22 occurring or committed within the 30-day period, deprive any  
23 person, firm, corporation, political subdivision, or body

1 politic of any right or rights to compensation or reimbursement  
2 which he, she, it, or they may have under the provisions of  
3 this Act:

4 (1) To suspend the provisions of any regulatory statute  
5 prescribing procedures for conduct of State business, or  
6 the orders, rules and regulations of any State agency, if  
7 strict compliance with the provisions of any statute,  
8 order, rule, or regulation would in any way prevent, hinder  
9 or delay necessary action, including emergency purchases,  
10 by the Illinois Emergency Management Agency, in coping with  
11 the disaster.

12 (2) To utilize all available resources of the State  
13 government as reasonably necessary to cope with the  
14 disaster and of each political subdivision of the State.

15 (3) To transfer the direction, personnel or functions  
16 of State departments and agencies or units thereof for the  
17 purpose of performing or facilitating disaster response  
18 and recovery programs.

19 (4) On behalf of this State to take possession of, and  
20 to acquire full title or a lesser specified interest in,  
21 any personal property as may be necessary to accomplish the  
22 objectives set forth in Section 2 of this Act, including:  
23 airplanes, automobiles, trucks, trailers, buses, and other  
24 vehicles; coal, oils, gasoline, and other fuels and means  
25 of propulsion; explosives, materials, equipment, and  
26 supplies; animals and livestock; feed and seed; food and

1 provisions for humans and animals; clothing and bedding;  
2 and medicines and medical and surgical supplies; and to  
3 take possession of and for a limited period occupy and use  
4 any real estate necessary to accomplish those objectives;  
5 but only upon the undertaking by the State to pay just  
6 compensation therefor as in this Act provided, and then  
7 only under the following provisions:

8 a. The Governor, or the person or persons as the  
9 Governor may authorize so to do, may forthwith take  
10 possession of property for and on behalf of the State;  
11 provided, however, that the Governor or persons shall  
12 simultaneously with the taking, deliver to the owner or  
13 his or her agent, if the identity of the owner or  
14 agency is known or readily ascertainable, a signed  
15 statement in writing, that shall include the name and  
16 address of the owner, the date and place of the taking,  
17 description of the property sufficient to identify it,  
18 a statement of interest in the property that is being  
19 so taken, and, if possible, a statement in writing,  
20 signed by the owner, setting forth the sum that he or  
21 she is willing to accept as just compensation for the  
22 property or use. Whether or not the owner or agent is  
23 known or readily ascertainable, a true copy of the  
24 statement shall promptly be filed by the Governor or  
25 the person with the Director, who shall keep the docket  
26 of the statements. In cases where the sum that the

1 owner is willing to accept as just compensation is less  
2 than \$1,000, copies of the statements shall also be  
3 filed by the Director with, and shall be passed upon by  
4 an Emergency Management Claims Commission, consisting  
5 of 3 disinterested citizens who shall be appointed by  
6 the Governor, by and with the advice and consent of the  
7 Senate, within 20 days after the Governor's  
8 declaration of a disaster, and if the sum fixed by them  
9 as just compensation be less than \$1,000 and is  
10 accepted in writing by the owner, then the State  
11 Treasurer out of funds appropriated for these  
12 purposes, shall, upon certification thereof by the  
13 Emergency Management Claims Commission, cause the sum  
14 so certified forthwith to be paid to the owner. The  
15 Emergency Management Claims Commission is hereby given  
16 the power to issue appropriate subpoenas and to  
17 administer oaths to witnesses and shall keep  
18 appropriate minutes and other records of its actions  
19 upon and the disposition made of all claims.

20 b. When the compensation to be paid for the taking  
21 or use of property or interest therein is not or cannot  
22 be determined and paid under item a of this paragraph  
23 (4), a petition in the name of The People of the State  
24 of Illinois shall be promptly filed by the Director,  
25 which filing may be enforced by mandamus, in the  
26 circuit court of the county where the property or any

1 part thereof was located when initially taken or used  
2 under the provisions of this Act praying that the  
3 amount of compensation to be paid to the person or  
4 persons interested therein be fixed and determined.  
5 The petition shall include a description of the  
6 property that has been taken, shall state the physical  
7 condition of the property when taken, shall name as  
8 defendants all interested parties, shall set forth the  
9 sum of money estimated to be just compensation for the  
10 property or interest therein taken or used, and shall  
11 be signed by the Director. The litigation shall be  
12 handled by the Attorney General for and on behalf of  
13 the State.

14 c. Just compensation for the taking or use of  
15 property or interest therein shall be promptly  
16 ascertained in proceedings and established by judgment  
17 against the State, that shall include, as part of the  
18 just compensation so awarded, interest at the rate of  
19 6% per annum on the fair market value of the property  
20 or interest therein from the date of the taking or use  
21 to the date of the judgment; and the court may order  
22 the payment of delinquent taxes and special  
23 assessments out of the amount so awarded as just  
24 compensation and may make any other orders with respect  
25 to encumbrances, rents, insurance, and other charges,  
26 if any, as shall be just and equitable.

1           (5) When required by the exigencies of the disaster, to  
2           sell, lend, rent, give, or distribute all or any part of  
3           property so or otherwise acquired to the inhabitants of  
4           this State, or to political subdivisions of this State, or,  
5           under the interstate mutual aid agreements or compacts as  
6           are entered into under the provisions of subparagraph (5)  
7           of paragraph (c) of Section 6 to other states, and to  
8           account for and transmit to the State Treasurer all funds,  
9           if any, received therefor.

10           (6) To recommend the evacuation of all or part of the  
11           population from any stricken or threatened area within the  
12           State if the Governor deems this action necessary.

13           (7) To prescribe routes, modes of transportation, and  
14           destinations in connection with evacuation.

15           (8) To control ingress and egress to and from a  
16           disaster area, the movement of persons within the area, and  
17           the occupancy of premises therein.

18           (9) To suspend or limit the sale, dispensing, or  
19           transportation of alcoholic beverages, firearms,  
20           explosives, and combustibles.

21           (10) To make provision for the availability and use of  
22           temporary emergency housing.

23           (11) A proclamation of a disaster shall activate the  
24           State Emergency Operations Plan, and political subdivision  
25           emergency operations plans applicable to the political  
26           subdivision or area in question and be authority for the

1 deployment and use of any forces that the plan or plans  
2 apply and for use or distribution of any supplies,  
3 equipment, and materials and facilities assembled,  
4 stockpiled or arranged to be made available under this Act  
5 or any other provision of law relating to disasters.

6 (12) Control, restrict, and regulate by rationing,  
7 freezing, use of quotas, prohibitions on shipments, price  
8 fixing, allocation or other means, the use, sale or  
9 distribution of food, feed, fuel, clothing and other  
10 commodities, materials, goods, or services; and perform  
11 and exercise any other functions, powers, and duties as may  
12 be necessary to promote and secure the safety and  
13 protection of the civilian population.

14 (13) During the continuance of any disaster the  
15 Governor is commander-in-chief of the organized and  
16 unorganized militia and of all other forces available for  
17 emergency duty. To the greatest extent practicable, the  
18 Governor shall delegate or assign command authority to do  
19 so by orders issued at the time of the disaster.

20 (14) Prohibit increases in the prices of goods and  
21 services during a disaster.

22 (Source: P.A. 100-863, eff. 8-14-18.)